

REMARKSA. Background

Claims 1-42 were pending in the application at the time of the Office Action. Claims 2, 4, 5, 26, 28, and 29 were rejected as failing to comply with the enablement requirement. Claims 5 and 29 were rejected as being indefinite. Claims 1-42 were rejected under the doctrine of obviousness-type double patenting. The Office Action stated that claims 1-42 would be allowable if claims 2, 4, 5, 26, 28, and 29 were amended to overcome the above rejections and a terminal disclaimer was submitted to overcome the double patenting rejection. Applicant has amended claims 5 and 29 herein. As such, claims 1-42 are presented for the Examiner's consideration in light of the following remarks.

B. Proposed Claim Amendments

Applicant has amended claims 5 and 29 to further clarify the invention. In view of this, applicant submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested.

C. Rejection on the Merits

Initially, Applicant would like to thank the Examiner for the telephone interview conducted on 7 December 2005. During the interview, the enablement rejections were discussed. After being pointed to specific portions of the application, the Examiner acknowledged that the elements of claims 2, 4, 26, and 28 were disclosed in sufficient detail as to be enabling. The discussion below reflects this discussion.

i. Enablement

Pages 2-4 of the Office Action reject claims 2, 4, 5, 26, 28, and 29 under 35 USC § 112, first paragraph, for failing to comply with the enablement requirement.

In rejecting claims 2 and 26 the Office Action asserts that “the specification fails to teach a tube within a tube extending” from the rotational axis of claim 2 or the tubular member of claim 26 “toward the peripheral wall.” Applicant respectfully disagrees. Claims 2 and 26 depend from claims 1 and 23, respectively. The specification discloses an extraction tube 410 which “is fluid coupled with and radially outwardly projects from each channel 346 of manifold 336.” Application Specification ¶ [0152]. As shown in Figure 22, extraction tube 410 extends toward the peripheral wall. As shown in Figure 23, each extraction tube 410 has an outer tube 412 with an inner tube 420 “[d]isposed within outer tube 412.” Application Specification ¶ [0152]. See also ¶ [0177] and Figure 27. Thus, the specification clearly teaches first and second tubes extending from toward the rotational axis [claim 1] or from the tubular member [claim 23] to toward the peripheral wall, “wherein one of the first tube and the second tube is disposed within the other,” as recited in claims 2 and 26.

In rejecting claims 4 and 28 the Office Action asserts that “the specification fails to teach integrally formed tubes extending” from the rotational axis of claim 4 or the tubular member of claim 28 “toward the peripheral wall.” Applicant respectfully disagrees. Claims 4 and 28 depend from claims 1 and 23, respectively. As shown in Figure 28, the specification discloses an “[c]xtraction tube 530 [that] comprises an integral tube 532 that bounds a supply duct 534 and an adjacently disposed removal duct 536.” Application Specification ¶ [0179]. Thus, the specification clearly teaches first and second tubes extending from toward the rotational axis [claim 1] or from the tubular

member [claim 23] to toward the peripheral wall, "wherein the first tube and the second tube are integrally formed," as recited in claims 4 and 28.

In rejecting claims 5 and 29 the Office Action asserts that "the specification fails to teach a tube aligned with and extending from the rotational axis toward the peripheral wall." Applicant has amended claims 5 and 29 to clarify that "the first tube defines and extends along a longitudinal axis, and the longitudinal axis of the first tube intersects the rotational axis." This is clearly shown in at least Figure 22 of the specification.

ii. Indefiniteness

Page 4 of the Office Action rejects claims 5 and 29 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the Office Action asserts that claims 5 and 29 are vague and indefinite as to "how the first tube can extend" from the rotational axis of claim 5 or the tubular member of claim 29 "to the peripheral wall and also be aligned with the rotational axis." Applicant has amended claims 5 and 29 herein to clarify that "the first tube defines and extends along a longitudinal axis, and the longitudinal axis of the first tube intersects the rotational axis." Thus, Applicant asserts that amended claims 5 and 29 are not indefinite. As such, Applicant respectfully requests that the indefiniteness rejection of claims 5 and 29 be withdrawn.

iii. Double Patenting

Pages 5-9 of the Office Action rejects claims 1-42 under the judicially created doctrine of obviousness-type double patenting in view of claims 1-4, 6, 7, 9-13, and 16-20 of U.S. Patent No. 6,346,069. In response thereto, enclosed please find a terminal disclaimer that disclaims the term of any patent that issues from the present application that extends beyond the term of U.S. Patent No.

